

REMARKS

Claims 1, 3, 4, 7 – 17, and 20 – 24 are pending in the application. Claims 1 and 11 – 16 have been allowed. Claim 10 was indicated as allowable but objected to because it depends from a rejected base claim. Claims 22 – 24 are newly presented. All other claims stand rejected as anticipated by one or more of the references discussed below. Some amendments to the claims have been made for readability and substance. The Applicants respectfully request the consideration of their remarks and allowance of all remaining claims.

The Provisional Double Patenting Rejection

Claim 1 has been allowed but is subject to a provisional nonstatutory double patenting rejection as being unpatentable over claim 1 of copending Application No. 10/027,843, filed the same day as the instant application. Applicants note that subsequent to the mailing of the most recent office action in this case, Applicants amended claim 1 in the '843 application. There has not yet been any indication communicated to Applicants that claim 1 of the '843 application is allowable. Applicants therefore respectfully request that the provisional double patenting rejection of claim 1 be withdrawn and the claim allowed to issue.

The McKinnon Reference

Claims 3, 4, 7, and 9 stand rejected under 35 U.S.C. § 102(e) as anticipated by United States Letters Patent No. 6,591,127 B1 to McKinnon ("McKinnon"). Applicants respectfully traverse these rejections.

Among other things, claims 3, 4, 7, and 9 recite "an actuator for separating the first and second openings of the first and second imaging devices from each other by a selected distance, wherein the distance between the first and second openings is sufficient to allow a caregiver to perform one or more interventional applications on the subject patient." The Examiner stated that McKinnon discloses such an actuator in column 3 at lines 20 – 31. Applicants disagree.

McKinnon discloses that an X-ray source is positionable within or adjacent to an opening on one side of a patient and a corresponding digital X-ray detector is positionable on an opposite side of the patient. McKinnon further discloses that both the X-ray source and the digital detector may be on a common gantry. This arrangement is not an actuator as claimed.

The actuator as claimed separates "first and second openings of the first and second imaging devices from each other by a selected distance. . . ." McKinnon's X-ray source and detector are two parts of a single device with a single opening. Nowhere does McKinnon disclose or suggest an actuator to separate first and second openings of first and second medical devices as claimed. Therefore, claims 3, 4, 7, and 9 are not anticipated by McKinnon and are allowable.

The Townsend Reference

Claims 3, 7, and 8 stand rejected under 35 U.S.C. § 102(e) as anticipated by United States Letters Patent No. 6,490,476 B1 to Townsend, et al. ("Townsend"). Applicants respectfully traverse these rejections.

Among other things, claims 3, 7, and 8 recite both an "alignment structure securing the openings of the first and second imaging devices in alignment with an imaging axis during the formation of one or more images" and "an actuator for separating the first and second openings of the first and second imaging devices from each other by a selected distance, wherein the distance between the first and second openings is sufficient to allow a caregiver to perform one or more interventional applications on the subject patient." The Examiner stated that Townsend discloses the claimed alignment structure in column 12 at lines 49 – 53 and the claimed actuator in column 20 at lines 3 -- 10. Applicants disagree.

In column 12 at lines 49 – 53, Townsend discloses X-ray CT and PET tomography detectors that are disposed in separate gantries that are fixed relative to each other. Fixing the relative positions of the X-ray and PET detectors is inconsistent with the use of an actuator to separate the devices. Townsend therefore teaches away from the use of an alignment structure as claimed and also teaches away from the use of an actuator to separate detectors. Therefore, Townsend does not disclose an alignment structure as claimed and does not anticipate claims 3, 7, and 8. Applicants submit that these claims are patentable over Townsend and respectfully request allowance.

The Ivan Reference

Claims 17, 20, and 21 stand rejected under 35 U.S.C. § 102(e) as anticipated by United States Letters Patent No. 6,364,536 B2 to Townsend, et al. ("Townsend"). Applicants respectfully traverse these rejections.

Among other things, claim 17 recites a step of "actuating the actuator to position each of the first and second housings between an adjoined position, with the axes of the first and second scanner bores substantially aligned, and a separated position, with the scanner bores spaced from each other by the actuator. . . ." The Examiner stated that Ivan discloses such a step in column 10 at lines 35 - 55. Applicants disagree.

The cited portion of Ivan discloses a configuration including an X-ray device and a magnetic resonance imaging (MRI) device. Ivan's disclosed X-ray device is disclosed to be affixed to a movable cart with an attached C-arm. Nowhere is an actuator as claimed by Applicants disclosed or suggested. Therefore, Ivan does not anticipate claim 17. Applicants submit that claim 17 is patentable over the Ivan reference. Because claims 20 and 21 depend from claim 17, these claims are also allowable over Ivan. Applicants respectfully request the allowance of these claims.

New Claims 22-24

New claim 22 depends from independent claim 3 and is allowable for the same reasons. Independent claim 23 and dependent claim 24 also recite patentable subject matter fully supported by the specification and do not add new matter. Applicants respectfully request allowance of these newly presented claims

CONCLUSION

For the foregoing reasons, Applicants submit that the claims remaining in their application recite patentable subject matter fully in accordance with statutory requirements and respectfully request the allowance of all claims remaining in the case. Please charge any deficiency or credit any overpayment to our Deposit Account No. 14-1270.

Respectfully submitted,

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By:



Wayne M. Serra
Reg. No. 51,138

Philips Medical Systems
(Cleveland), Inc.
Intellectual Property and Standards
595 Miner Road
Highland Heights, Ohio 44143

(440) 483-3000